

WHITE PAPER

REORGANIZATION OF POST ADOPTION SERVICES PROGRAM

Department of Social Services

Honourable R. C. Brett, M.H.A., Minister

AUGUST, 1986

TABLE OF CONTENTS

	<u>PAGE NO.</u>
PREAMBLE	
SUMMARY	
BACKGROUND	1
POLICY OPTIONS	5
PUBLIC OPINION	12
SUMMARY OF SYSTEM STRUCTURE	16
CONCLUSION	21

PREAMBLE

Government has proposed the concept of a fully active search and intermediary service in relation to the Post Adoptions Program, which would result in significant changes in legislation, policies and procedures governing the adoptions program.

Through such a system, adoptees, birth parents and other relevant and appropriate parties may obtain identifying information about their backgrounds and may arrange reunions through the Department of Social Services. This system will also recognize the necessity of obtaining consent of the parties involved in initiating such actions.

Before proceeding with the introduction of such a system, government wishes to receive reaction and input from the community in general and particularly from those parties that would be affected by such changes. Therefore, a Government White Paper has been produced which outlines, in detail, the changes and an implementation strategy for introducing such changes which focuses upon the rights and best interests of all parties concerned.

The White Paper is to receive wide distribution throughout the province and solicits written submissions to be directed to the Director of Child Welfare, Department of Social Services, Confederation Building Extension, St. John's, Newfoundland A1C 5T7.

Submissions will be accepted up until November 30, 1986, and it is government's hope to finalize its position in time for the introduction of appropriate legislative changes in the 1987 session of the House of Assembly.

SUMMARY

The Government proposes a fully active search and intermediary service relating to the Post Adoption Services Program by:

- Establishing a central post adoption services unit from within the Division of Child Welfare which, in conjunction with the five regional and fifty-three district social services offices, would implement this service throughout the entire province. This unit would be staffed by personnel with training and experience in the area of case work group work, family therapy and mediation.
- Developing a mediation and counselling service which would be available to prepare, advise and assist all relevant parties on matters relating to post adoption services.
- Amending the Adoption of Children Act, No. 36, 1972, and related Regulations to make provision for the development and implementation of this service.

BACKGROUND

Historically, adoption in North America has operated under a "closed system." Adoption law, which goes back to the beginning of the twentieth century, has operated on the assumption that the parties should remain anonymous and that records should be sealed. In the case of Newfoundland, adoption law had its beginning in the early 1940s. Following enactment of the Adoption Act, the adoption process was firmly established and has operated under a closed and sealed record system. In such a system, the names of the adoptive parents are not given to the birth parents and the child is not given access to his/her adoption file nor is he/she allowed access to identifying information about his birth parents or siblings.

It is interesting to note that, prior to the introduction of adoption law, Newfoundland operated an adoption process through a private contract. This contract was drawn up between the parties of an adoption and was called an "indenture." The contract was often witnessed by a third party but in many cases, the adoption was "open" in that the parties knew each other.

The closed and sealed adoption system has continued over the years because it was believed to be the most desirable arrangement. Adoption, as a form of permanent care for children, is still considered the most desirable arrangement when the birth family cannot meet the child's needs. However, the closed nature of adoption has come under a great deal of scrutiny and criticism during the last few years.

Inherent in the closed adoption system has been the assumption that (1) it was in the best interest of the birth parents who would wish to remain anonymous, (2) in the best interest of the adoptive parents who fear interference in raising their child, and (3) it is a fact of life for the adopted person.

Over the years, a number of changes have lead the social work profession and other involved groups to re-examine the three assumptions on which adoption practices are based. Factors leading to this re-examination include:

1. The growth of an articulate group of adult adoptees who maintain that they have a "right" to know their biological identity.
2. A failure, historically, to take adequate medical histories has resulted in a lack of vital medical information for adoptees.
3. An increase in the number of older child adoption placements. In the case of placements of older children, it becomes essential that there be continuity for the child with his/her past. The closed adoption system, therefore, has been questioned for this group.

4. A growing number of birth parents who maintain that you do not forget the child you placed for adoption, and a large number of birth parents who express a desire and willingness to meet with the child they placed for adoption.
5. A large number of adoptees who have completed their own searches and a concern that, without social work agency involvement, these independently conducted searches may cause the parties considerable pain.
6. An awareness in the child psychology literature of the importance, especially in adolescence, of individuals knowing their genetic backgrounds. An increase in the literature in this area indicates that a sense of "rootedness" is important for all adolescents. While this literature does not address adoptees per se, it does lead to the conclusion that adoptees also need an awareness of their biological past.
7. A growing awareness of the genetic nature of certain illnesses, and the increased awareness of genetic knowledge for health reasons.

8. The formation of a number of pressure groups to lobby for policy change. These lobby groups consist of individuals representing the reality of adoption - i.e. the adopted clients themselves.
9. The awareness in areas where private adoption is legal, that birth mothers choose private placements because they wish to know how their biological children are growing and developing.
10. An increased awareness that while adoption changes the legal parentage for a child, the birth background cannot be denied.
11. A general awareness of civil rights as seen through the 1960s in the United States, and more recently the provisions contained in the Charter of Rights and the Freedom of Information Legislation. (The belief, for example, that government does not have the right to withhold information contained in files.)

At first, when adult adoptees began to question the closed record, they were not considered to be a representative sample. However, as the numbers undertaking searches increase, it became impossible to deny their arguments.

POLICY OPTIONS

Because the arguments for changing the adoption system are so convincing, many Child Welfare agencies have begun to review their past practices. Agencies are trying to adjust their policies regarding adoption in such a manner that recognizes the interests of all the parties involved. Attempts are being made to weigh "the right" claimed by the adoptee to know "his roots," the birth parents' rights to privacy, as well as the adoptive parents' legal rights.

The following policy options have evolved throughout North America:

1. NO ADDITIONAL SERVICE AT ALL - This policy stance maintains the status quo. The traditional adoption format is followed, and the seal on the adoption record is not broken; not even non-identifying information is summarized for adult adoptees. A recent survey indicated that British Columbia will only look at opening files for very specific medical information; however, at this time there are active adoptee reform groups pressuring for change. It has been reported that a private members bill has also been submitted supporting change.
2. THE PROVISION OF NON-IDENTIFYING INFORMATION FROM VAULT FILES - When the child is placed for adoption, social history information is given to the adoptive parents. In

recent years, adult adoptees have returned to agencies looking for this information. A practice then began with opening the vault files and providing a summary of non-identifying information to adult adoptees. This is not felt to be a major policy change as the information given out is information to which the adoptive family is originally entitled. Nine provinces of Canada now summarize non-identifying information for adoptees. In addition, some information of a non-identifying nature is now summarized for birth parents in nine provinces. (In the case of minors, adoptive parents are provided with the non-identifying information.) Prince Edward Island provides only non-identifying information.

3. PASSIVE MUTUAL CONSENT REGISTRY - This policy option has evolved almost as a natural consequence of opening vault files. Basically, the option means that the Director of Child Welfare's office will facilitate a reunion where a matched inquiry from the birth parent and the adult adoptee has been received. Such a registry can also involve siblings. One of the problems with this system, is that few matches occur; e.g. in New Brunswick for the first two year period in which they operated a passive system, only three birth parent/adoptive child registrations were matched. This is not an indication of a lack of interest on the part of birth parents because, where active searches are undertaken, two thirds of the birth parents contacted agree to

reunions. Newfoundland has tended towards the operation of a passive system in recent years; however, the policy is not a written one as a passive system was undertaken as an interim measure until a thorough policy review was completed.

In addition, to Newfoundland and New Brunswick, at present, Nova Scotia, Prince Edward Island, Ontario and Manitoba offer a passive mutual consent registry. Alberta, with its new Child Welfare Legislation, is about to enact a passive registry. In Ontario, a major report has been written regarding a change in their policy, and Manitoba has new legislation which makes provision for a more active system. It should also be noted that until this time in Ontario, the adoptive parents' consent was necessary even when there was a matched inquiry received. In other words, an adopted person could be fifty years old, have a matched inquiry from his/her birth parent, and the reunion could not be initiated unless his/her adoptive parents gave their permission.

4. A COMBINED ACTIVE/PASSIVE SEARCH AND INTERMEDIARY SYSTEM -

This policy option maintains that the adult adoptee has a right to search, but that the birth parents' permission for contact is necessary before identifying information can be released. Permission of the parties involved for an exchange of identifying information is the bottom line. In order to obtain that permission, a discreet search is

conducted in order to locate the birth parent. If the birth parent agrees to contact, reunions can be facilitated. The term "active" refers to the active search for the birth parent.

In Saskatchewan, where this registry already exists, two-thirds of birth parents agree to contact.

In this policy option, the "passive" system is maintained when the birth parent approached the agency. Birth parents' requests for contact are registered; however, a search will not be made for the adoptee at the request of the birth parent.

Saskatchewan has operated this system since 1982 and report positive results. Manitoba, which currently operates a passive system, intends to move to this system in a new Child and Family Services Act. This act has already been assented to by the Legislative Assembly.

The North West Territories has no formalized registry, but will contact birth parents on behalf of the adoptee if the adoptive parents' consent is obtained.

5. PROVISION OF A FULLY ACTIVE SEARCH AND INTERMEDIARY PROCEDURE - This system has yet to be fully introduced anywhere in Canada. The introduction of this system would involve discreet searches for birth parents on

behalf of searching adult adoptees. However, it goes one step further in that it recognizes the right of the birth parents to initiate a search for the adult adoptee who was placed for adoption.

It is understood that Quebec has begun to introduce such a system. However, Quebec has no centralized record system, and there are fifteen different Social Services Centres in the province that hold records of their own adoptions. Correspondence from Quebec indicates that they will make one contact only with any adult party to the adoption. If the sought party agrees to the release of information, then a reunion can be arranged. If the sought party refuses to allow disclosure of his/her identity, the matter ends there. Statistics were not available from the English Social Service Centre in Quebec; however, that Centre indicates 68.7 percent of searches resulted in reunions while 10.9 percent refused contact. The agency which was contacted in Quebec indicated that the demand for searches has snowballed and that there are lengthy waiting lists for people wishing searches.

In Ontario, where there has been considerable publicity regarding adoption disclosure, a report has been completed for the Provincial Government by the University of Toronto's Director of Social Work School. According to the Globe and Mail (November 25, 1985), the report contains

recommendations for major changes towards an active system.

6. PROVISION OF IDENTIFYING INFORMATION - In many cases, adoptees are surprised to learn that they are not entitled to their original birth certificate and to identifying information about their birth parents. Many of them maintain that they are not interested in contact with their birth parents, but wish their original birth information.

Generally, it has not been the practice in North America to release this information. In Scotland, however, for many years when an adopted person reached the age of majority, he/she could obtain his/her original birth certificate. It is understood that in Alberta's new Act, the adoptive parents will receive this original identifying information on the adoption court order.

It is generally believed that the basic principles of the closed adoption system would be violated if identifying information was provided to individuals who were placed for adoption in the past and it is for this reason that search systems have evolved. However, there appears to be little doubt that many adoptees desire identifying information once they become adults and this could be achieved by developing policy whereby birth parents and adoptive

parents will understand that children placed for adoption will, as adults, be entitled to this information.

7. OPEN ADOPTION - Again, open adoption is a policy option that does not pertain to our current population of adoptees. However, as more and more is learned from the parties of the adoption, it is found that, in many cases, a system of open adoption could have been workable. Forms of open adoption vary from the full exchange of names and ongoing visitation between birth parents and adoptive families, to less open meetings of birth parents and adoptive families without the exchange of names. This policy needs to be examined in terms of future developments in the adoption program.

OTHER CONSIDERATIONS

Any policy option that is explored involves several important factors. The position of adoptive parents must be addressed. As well, the age at which services will be made available must be reviewed. Other concerns include the linking of siblings where the birth parents placed each child separately. Also of concern is whether the Department of Social Services should have the discretion to refuse a search where active searching is policy. Another issue is the right of appeal in such situations.

PUBLIC OPINION

It has been the experience of a number of provinces that public opinion has influenced the policy options that they have chosen. For example, in Prince Edward Island in 1981, an attempt was made to change their Adoption Act to allow for a passive mutual consent registry. However, the opposition to such a system was so strong that it was not implemented.

Similarly, in Saskatchewan, it was their original intention to introduce a fully active search and intermediary service. However, strong opposition was voiced by adoptive parents to the idea of having their children (who are now adults) contacted on behalf of searching birth parents. Consequently, Saskatchewan opted for the combined active/passive search and intermediary service.

Policy in the area of adoption disclosure is very often emotionally charged. It is clear from the large number of adult adoptees who approach the Department of Social Services that adoptive parents, traditionally, may have had some difficulty in handling their children's adopted status. Some feel very threatened by the idea of other "parents." Their concerns are understood when such language as "real parents" is used with reference to birth parentage.

In putting together a policy proposal, attempts were made to gauge public opinion in this province. As a means of gathering information in this regard, an advertisement was placed in The Evening Telegram asking for public submissions. In addition, professional associations were asked to make policy submissions, and the staff of the Department of Social Services were canvassed with questionnaires. As a result of these efforts, it was found that a great deal of concern existed that adoption disclosure be handled carefully, discreetly and with qualified personnel. No strong opposition was received from adoptive parents with the exception of one couple who commissioned a lawyer to write a brief on their behalf.

Response to the public advertisement was generally poor, however, the thrust of the response was that children should not be involved in the process, but that adult adoptees should be given more services than they presently receive. Of the professional associations, the following emerged:

1. The Newfoundland Association of Social Workers strongly supported an active search system and made a number of recommendations including that no information be shared with minors except through an Independent Advisory Committee. They felt that if adult adoptees agreed, birth parents should be given identifying information. The Association concluded that "in our opinion, search work is a very sensitive area and requires considerable expertise."

2. The Janeway Hospital Social Work Department made a submission and also stressed the need for qualified staff. Their concerns included the need for post adoption services in the form of workshops for adoptive families after the adoption is finalized. They again stressed the need for permission in all cases before the release of identifying information occurs.
3. A Committee of Social Work Administrators in Health Care Facilities recommended a fully active registry system.
4. The Newfoundland Status of Women also made a submission and were again concerned that qualified staff be available for post adoption services. They also recommended that forms of open adoption be considered.
5. Questionnaires were mailed to staff of the Department of Social Services and of the response received, there was general support for a discreet search service for adult adoptees. There was also support for the provision of search services to birth parents who wish to locate the children (now adults) that they placed for adoption. Sixty-one percent of those responding to the questionnaire felt that the Division of Child Welfare should offer disclosure services. They believed that disclosure is a sensitive area that requires expertise and training, and that it is an area that should be adequately staffed

and that the best way to do this was to have specific workers assigned to the job at the Director's office.

In summary, based on the questionnaire, briefs and submissions, there appears no strong lobby group opposed to a move towards active searching on behalf of adult adoptees.

There is more caution expressed with regard to undertaking searches that are initiated by the birth parents. Most groups felt that, for adult adoptees, the permission of adoptive parents should not be the determining factor, but that no identifying information should be released without consent of the affected parties. Submissions placed considerable emphasis on the need for "highly qualified" and "trained staff" for this "highly complex and sensitive" type of work.

A policy change towards active search services, once publicized, is expected to gather criticism. It can be expected that this province is no different from others, in that active search systems, unless properly understood, may be threatening to certain parties. Often, such reaction results from a fear of the unknown, thus the provision of workshops, research materials, etc. would be very helpful. It should also be realized that research has shown that a significant number of adoptive parents favour disclosure.

SUMMARY OF SYSTEM STRUCTURE

The closed system has come under fire in recent years by those directly affected. A point has now been reached where Government must decide whether to ignore this reaction and continue to try to operate under traditional methods, or to revise policy in keeping with a significant increased knowledge of adoption.

The assumptions on which adoption has been based have been challenged. The closed adoption system is not always in the best interest of the parties involved. In particular, adult adoptees state quite emphatically that the contract under which their adoption took place did not involve them, yet, it is their genetic past that has been cut off.

It has also been discovered that adoptive parents have not always been equipped to do the sensitive job of helping their children work through the fact that they have two sets of parents.

Furthermore, birth parents who relinquished children for adoption were often young and in crisis and sometimes regretted their decision in later life, or felt that they had made their decision because there were no other options available to them.

With the knowledge available today of the manner in which the present adoption program has affected people's lives, Government recognizes the benefits of a fully active search

and intermediary system. The following features would be incorporated in such a system to insure the best interests of all parties are protected throughout the entire process.

1. Searches would not be undertaken for minors (below nineteen years), even where adoptive parents are supportive.
2. Post adoption services involve more than search and intermediary services, and such services as regional workshops for adoptive families be developed.
3. A minimum of two interviews with a qualified social worker be necessary before searches will be undertaken.
4. Post reunion counselling and follow-up will be encouraged but not mandatory, and social worker's presence at reunions would be a client/worker decision.
5. One contact only would be made to the party of an adoption regarding the sharing of information and reunion.
6. Refusal by either party to release identifying information and/or contact would always be respected.
7. All legitimate information such as the exchange of photos, anonymous letters, etc., will be explored to facilitate the

reunion process and, where contact is refused, medical and other requested non-identifying information will be obtained at the time of contact.

9. Search services must always be discreet, and only the party sought should be advised of who is making the contact and why.
10. In cases where searches are completed and the party sought is deceased, the case will normally be considered closed. Exceptions must be documented to the Director of Child Welfare and conferenced before further action.
11. In cases where Consent to Adoption was signed, former foster children are to be subject to the same policy and procedure as adult adoptees.
12. The provision of, as thorough as possible, summaries of non-identifying information to adoptees over nineteen and adoptive parents, where the adoptee is under nineteen, should continue. The present practice of providing non-identifying information about the adoptive family and the child to the birth parents should continue. This sharing of non-identifying information should continue directly from the Division of Child Welfare.

13. In cases where non-identifying information is difficult (e.g. severe mental illness), non-identifying information will be shared directly by a social worker and, in no case should it be forwarded directly to the client through the mail.
14. Consideration be given to search requests on behalf of siblings, half-siblings and birth relatives. Each case will be assessed individually and conferenced with the Director of Child Welfare before a decision is made.
15. Searches for birth fathers will not be undertaken where there is no legal evidence or mutual admission to paternity.
16. Access to the vault file will remain limited as currently defined by the Adoption Act. However, parties to an adoption should be permitted to update and exchange non-identifying information at any time. (The procedure would involve submitting information to the Director's office as is currently done.)
17. The Director of Child Welfare be provided with the authority to refuse, defer or set conditions with regard to any search where it is determined that there are circumstances which threaten the rights and best interests of either party.

18. An appeals system be introduced for individual cases where the Director has refused a search. (An outside appeals group such as the Adoption Appeals Board be introduced.)
19. A ninety day appeal period be initiated.
20. A series of educational sessions with regard to post adoption services be held throughout the province once the recommendations are initiated.

CONCLUSION

In this White Paper, the Government has endeavoured, through the gathering and documentation of background information, policy options, interprovincial and international systems and agency responses, to outline in detail, the present situation relating to post adoption services. It has also identified the changing trends which have occurred in the adoption program over the years and how such changes have impacted upon the lives of parties to an adoption.

As the agency responsible for the development and implementation of legislation, policy and procedures which govern post adoption services, Government is very conscious of and sensitive towards those ideas and concerns expressed by parties to an adoption, as well as the initiation of actions which affect their rights and best interests.

Government, therefore, wishes to stress the importance of receiving responses from various groups and the general public to the changes outlined in this White Paper. All interested and involved groups, especially those persons who are directly affected by such changes, are encouraged to submit their reactions, in writing, to the Director of Child Welfare, Department of Social Services, Confederation Building Extension, St. John's, Newfoundland A1C 5T7 on or before November 30, 1986.